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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,500	02/05/2001	Nicholas William Sincaglia	21685-06151	8385
45506	7590	07/29/2005	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204			EHICHIOYA, FRED I	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/777,500

Applicant(s)

SINCAGLIA ET AL.

Examiner

Fred I. Ehichioya

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9 - 15, 18, 20, 21, 23, 33 - 38, and 45 - 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 - 15, 18, 20, 21, 23, 33 - 38, and 45 - 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 9 – 15, 18, 20, 21, 23, 33 – 38, and 45 – 50 filed May 09, 2005 have been fully considered but they are not persuasive for the following reasons.

2. *Applicants' rebuttal to examiner's objection to for failing to comply with written description requirement states, "With respect to the "separate and independent operation" of metadata server 103, and media data servers 109, 115, 121 and 121, applicants has clearly conveyed the information in numerous places in the instant disclosure. For example, in the summary of the invention section (page 3, lines 30 – 33)" (pages 15 – 16 of Remarks).*

Page 3, lines 30 – 33 of the specification states *"It is yet another advantage to provide greater control over the use of the media data files by the media data owners by allowing the media data owners to operate and maintain their own media data files servers"*. However, examiner does not see "separate and independently operated" or "media data servers are separate and independently operated from the meta data server(s)" on page 3, lines 30 – 33 or any other parts of the specification.

3. *Applicants argued that claims 9, 33 and 45 includes the recitation that media data servers are separate and independently operated from the meta data server(s). The independent operation includes without continuous observing by, and communicating with the meta data server. Thus Chan and Jones does not teach or suggest the above discussed recitations of claims 9, 33 and 45 (page 17 of Remarks).*

Examiner respectfully disagrees. Chen teaches on column 8, lines 26 – 31 that

"the metaserver can coordinate a plurality of multimedia servers located in different geographical areas" can be translated as "the media data server being separate and independently operated from the meta data server" and Chen also teach on column 7, lines 24 – 27 that "the metaserver periodically communicates with each multimedia server" which can be translated to "without continuously observing by, and communicating with the meta data server".

4. In view of the above, the examiner contents that all limitations as recited in the claims have been address in this Action. For the above reasons, Examiner believed that rejection of the last Office action was proper.

#### **DETAILED ACTION**

##### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

Art Unit: 2162

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 9, 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,004 issued to Ling Tony Chen et al. (hereafter "Chen") in view of U.S. Patent 6,453,355 issued to Anne Jones et al (hereinafter "Jones").

Regarding claims 9, 33 and 45, Chen teaches a method for servicing media data requests in a meta data server, the method comprising:

- receiving a media data request from a client, the request received by a meta data server (see column 11, lines 8 - 17),

- transmitting the meta data to the client for use by the client to locate the media data server to retrieve the media data(see column 4, lines 55 – 67).

- the media data server being separate and independently operated from the meta data server (see column 8, lines 26 – 31), including without substantive continuous observation by, and communication with the meta data server (see column 7, lines 23 – 28).

Chen does not explicitly teach retrieving meta data associated with the media data request from a meta data database, the meta data identifying a media data server having the requested media data.

Jones teaches retrieving meta data associated with the media data request from a meta data database, the meta data identifying a media data server having the requested media data (see column 5, lines 24 – 29), an entity different from the media service provider (see column 14, lines 1 – 18).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Jones' teaching of "entity different from the media service provider" would have allowed Chen's system to perform the packetization of the media data when required on the transmitting system according to the particular transmission protocol which is desired; consequently solving the problems of streaming time related sequences as suggested by Jones at column 6, lines 25 - 31.

7. Claims 10, 11, 12, 13, 14, 15, 23, 35, 36, 37, 38, 47, 48, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Jones and further in view of U.S. Patent 6,510,553 issued to Rajeeb Hazra (hereinafter "Hazra").

Regarding claim 10, Chen and Jones discloses the claimed subject matter as discussed in claim 9. However, Hazra teaches wherein the meta data contains an address of said media data servers, and the method further comprises (see column 6, lines 37 – 42):

designating said media data server a primary media data server, based upon at least criteria gathered from a communication network between the client and the media data servers (see column 5, lines 43 - 65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Hazra with the teaching of Chen and Jones wherein meta-data is used to locate media data from the Internet. The motivation is that the data are compressed and transmitted as audio stream. This makes the transmission much faster.

Regarding claim 11, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches, wherein the media data server designated as a primary media data server is media data server having a lowest number of clients accessing media data among a community of media data servers having the media data (see column 5, lines 52 - 55).

Regarding claim 12, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches wherein the media data server designated as a primary media data server is media data server having a highest reliability rating, among a community of media data servers having the media data (see column 5, lines 52 - 54).

Art Unit: 2162

Regarding claim 13, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches wherein the media data server designated as a primary media data server is media data server having a highest data throughput, among a community of media data servers having the media data (see column 2, lines 51 - 55).

Regarding claim 14, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches the primary media data server is designated by the meta data server (see column 8, lines 26 - 31).

Regarding claim 15, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches the primary media data server is designated by the client (see column 5, lines 52 - 62).

Regarding claims 23, 35 and 47, Chen and Jones discloses the claimed subject matter as discussed in claims 9, 33 and 45 respectively. However, Hazra teaches wherein the meta data transmitted to the client are for a portion of the requested media data that is unusable without an additional portion of the requested media data, and the method further comprises:

receiving request from the client for additional meta data for the additional portion of the requested media data (see column 4, lines 61 - 67); and

transmitting the additional meta data to the client (see column 5, lines 58 - 59).



Regarding claims 36 and 48, Hazra teaches the electronic device is a computer system (see column 5, lines 15 – 18).

Regarding claims 37 and 49, Hazra teaches the requested media content is accessible from the electronic device over the Internet (see column 5, lines 15 – 21).

Regarding claims 38 and 50, Hazra teaches the requested media content is an audio file (see column 5, lines 55 – 59).

8. Claims 18, 21, 34 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Jones and further in view U.S. Patent 6,385,596 issued to Philip R. Wiser et al (hereinafter "Wiser").

Regarding claims 18, 34 and 46, Chen and Jones discloses the claimed subject matter as discussed in claims 9, 33 and 45 respectively. However, Wiser teaches wherein the requested media data are encrypted, and the method further comprises (see column 3, lines 51 – 63):

requesting decryption key for the requested media data from a meta data database, in response to another request from the client, subsequent to providing of the meta data, and retrieving of the media data by the client (see column 4, lines 33 – 36);  
and transmitting the decryption key to the client (see column 4, lines 36 – 41).

Art Unit: 2162

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Wisner with the teaching of Chen and Jones wherein the additional media data is known only to the purchaser of these media data. The motivation is that these portion of the media data provide additional security measures in combination with the encryption mechanisms.

Regarding claim 21, Wisner teaches receiving a log-in request from said client over the communication network (see column 20, lines 19 – 43); and

performing a client access permission verification (see column 20, lines 57 – 64 and column 22, lines 20 – 24).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Jones and further in view of U.S. Patent 6,209,787 issued to Takahito Iida (hereinafter "Iida").

Regarding claim 20, Chen and Jones disclose the claimed subject matter as discussed in claim 9. Chen teaches wherein said meta data comprises at least one data item, said at least one data item selected from the list of:

a network address of a primary media data server that has access to the media data (see column 7, lines 19 – 31);

a directory structure of the primary media data server (see column 9, lines 29 – 38);

Art Unit: 2162

a name of a file having the media data (see column 9, lines 39 – 45);

a network address of an alternate media data server that has access to the media data (see column 7, lines 19 – 31);

a directory structure of the alternate media data server (see column 9, lines 19 – 38);

a network address of a graphic image server that has access to a graphical image associated with the media data (see column 4, lines 21 – 23 and column 7, lines 19 – 31);

a directory structure of the graphical image server (see column 4, lines 21 – 23 and column 9, lines 29 - 31);

a network address of an information server that has access to additional information about artistic work contained in the media data (See column 7, lines 19 – 31; lida teaches “artistic work” in column 11, lines 26 – 36);

a directory structure of the information server (see column 9, lines 29 – 38; lida teaches “artistic work” in column 11, lines 26 – 36);

a network address of a sales server which offers a sale of the media data file (see column 7, lines 19 – 35);

a directory structure of the sales server (see column 9, lines 29 – 38);

Chen or Jones does not explicitly teach a name of and owner of the media data; a name of a composer of the media data; a name of a copyright holder of the media data; a name of a graphical image file associated with the media data file; a title of an

Art Unit: 2162

artistic work contained in the media data; a title of a body of work in which the media data is associated; a name of at least one performer of the media data; a name of at least one composer of artistic work contained on the media data; a name of at least one creators of the media data; a name of a file that contains additional information about artistic work contained in the media data; a name of a file that contains information on a sale of the media data; a network address of an associated sales server which offers a sale of associated products of the media data; a directory structure of a storage device that contains sales information for the associated products of the media data file; and a name of a file that contains information on sales of associated products of the media data file.

lida teaches a name of an owner of the media data (see column 49, lines 20 – 67);

a name of a composer of the media data (see column 49, lines 20 – 67);

a name of a copyright holder of the media data (see column 40, lines 49 – 59);

a name of a graphical image file associated with the media data (see column 37, lines 58 – 67 and column 38, lines 1 – 2);

a title of an artistic work contained in the media data (see column 12, lines 17 – 25);

a title of a body of work in which the media data is associated (see column 11, lines 33 – 36 and column 17, lines 12 – 53);

a name of at least one performer of the media data(see column 12, lines 17 – 25 and column 17, lines 12 – 53);

Art Unit: 2162

a name of at least one composer of artistic work contained in the media data  
(see column 12, lines 17 – 25 and column 17, lines 12 – 53);

a name of at least one creators of the media data (see column 17, lines 12 – 53);

a name of a file that contains additional information about artistic work contained  
in the media data (see column 11, lines 26 – 36);

a name of a file that contains information on a sale of the media data (see  
column 77, lines 29 – 43);

a network address of an associated sales server which offers a sale of  
associated products of the media data (see column 75, line 23 and column 77, lines 29  
– 45);

a directory structure of the associated sales server(see Chen: column 9, lines 29  
– 38, column 79, lines 64 – 67 and column 80, lines 1 – 3); and

a name of a file that contains information on sales of associated products of the  
media data (see column 77, lines 29 – 43).

It would have been obvious to one of ordinary skill in the art at the time the  
invention was made to combine teaching of lida with the teaching of Chen and Wiser  
wherein videos, CDs, musical selections or any other multimedia data are selected and  
purchased over the network, The motivation is that this purchases are safe and secure  
due to encryption mechanism.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred I. Ehichioya whose telephone number is 571-272-4034. The examiner can normally be reached on M - F 8:00 AM to 4:30 PM.

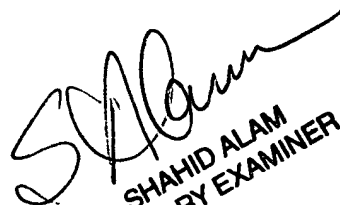
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2162

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fred I. Ehichioya  
Patent Examiner  
Art Unit 2162

July 15, 2005

  
SHAHID ALAM  
PRIMARY EXAMINER